

REMARKS

This paper is presented in response to the Office Action. By this paper, claims 26-28 are amended and new claims 32-34 are added. Claim 7 was canceled in an earlier paper. Claims 1-6 and 8-34 are now pending in the application.

Reconsideration of the application is respectfully requested in view of the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks, or a lack of remarks, presented herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Further, Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

II. Rejection of Claims 2-6 under 35 U.S.C. § 112

The Examiner has rejected claims 2-6 under 35 U.S.C. § 112, Second Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner alleges that "the outer cage" in claim 2 has insufficient antecedent basis. Applicant respectfully disagrees. Claim 1, from which claim 2 depends clearly recites "a latching mechanism that enables the component structure to be selectively secured at least partially within **an outer cage**." By reciting "an outer cage," claim 1 provides sufficient antecedent basis for reciting "the outer cage" in claim 2. As such, Applicant respectfully requests that the indefiniteness rejection of claims 2-6 be withdrawn.

III. Rejection of Claims 1-6, 8-25 and 29-31 under 35 U.S.C. § 103

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

a. claims 1-5, 8-20, 22-25 and 29-31

The Examiner has rejected claims 1-5, 8-20, 22-25 and 29-31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,854,894 to Yunker et al. ("*Yunker*") in view of U.S. Patent No. 7,118,281 to Chiu et al. ("*Chiu*"). Applicant respectfully disagrees.

Applicant respectfully asserts that a *prima facie* case of obviousness has not been established regarding rejected claims 1-5, 8-20, 22-25 and 29-31 because a proper motivation to combine the teachings of *Yunker* with the latching mechanism of *Chiu* has not been sufficiently demonstrated and because a reasonable expectation of success has not been shown. Absent such motivation and expectation of success, a rejection based on the combination of references is unsupported and any rejection based on such a combination must be withdrawn.

As a preliminary matter, Applicant notes that the Examiner has failed to state precisely what the Examiner believes to constitute the purportedly obvious combination of *Yunker* and *Chiu*. For example, the Examiner concedes that *Yunker* fails to teach "a latching mechanism," as recited in claims 1, 11, 18 and 29. The Examiner then cites *Chiu* for teaching "a retention and release mechanism for holding a fiber optic module affixed to a module receptacle and for de-latching or unplugging the module from the receptacle." The examiner concludes that "it [would have been] obvious to incorporate the retention and release mechanism taught by Chiu et al. in the SFP assembly disclosed by Yunker et al. Applicant submits that simply stating that it would be obvious "to incorporate the retention and release mechanism" is vague and unclear.

For example, the Examiner's comments might signify that the Examiner believes it would be allegedly obvious to add a separate retention and release mechanism to each transceiver, as is taught by *Chiu*. Another possibility is that the Examiner believes it would be allegedly obvious to add a single retention and release mechanism that spans the entire set of transceivers situated side by side, as disclosed in *Yunker*. See Figures 4 and 5. *Chiu* discloses a retention and release mechanism 902 used only with a single transceiver (i.e. a receiver/transmitter pair), as shown, for example, in Figures 14A-C. The reason for this, according to *Chiu*, is to allow for the easier removal of single failed fiber optic transceivers without adversely affecting adjacent transceivers. See col. 1, line 61 to col. 2, line 28. Therefore, for the purposes of this paper, Applicant has assumed that the former interpretation, rather than the latter, reflects the position of the Examiner. If this understanding is incorrect however, Applicant respectfully requests that the Examiner provide suitable clarification.

Not only has the Examiner failed to clearly identify what is believed by the Examiner to constitute the allegedly obvious combination, but the rejection advanced by the Examiner is problematic for other reasons as well.

In particular, *Yunker* discloses that one of its main purposes is to increase the number of ports linearly mounted on a standard rack-sized printed wire assembly. See col. 1, lines 26-59. It appears that *Yunker* accomplishes this by removing the spaces between the transceiver pairs (e.g., 412, 414 and 416) by implementing common walls (442 and 452) between the transceivers or getting rid of the walls altogether, as shown in Figures 4 and 5. In particular, *Yunker* discloses that "...optical receptacles 412 and 414 have a two-part abutting shared wall 442...[and] optical receptacles 414 and 416 have a two-part shared wall 452..." (col. 7, lines 58-62) and further discloses that "Optical receptacles 512 and 514 have a unitary shared wall 542 and optical receptacles 514 and 516 have unitary shared wall 552." Col. 8, lines 37-39.

In contrast, it appears that implementation of the *Chiu* retention and release mechanism requires space on each side of the transceiver so as to allow attachment of a lever 902 of the retention and release mechanism to the transceiver. As well, sufficient space must be provided on each side of the transceiver to allow installation of the bail pin 904 about which the lever 902 rotates. See, e.g., Figure 14B. In view of the evident space consumption by the *Chiu* retention and release mechanism, implementation of that mechanism in the *Yunker* device would be antithetical to one of the stated purposes of the *Yunker* disclosure. As such, *Yunker* counsels against the allegedly obvious combination.

Moreover, the Examiner has asserted that "...Chiu et al. teaches that the retention and release mechanism is particularly applicable to an SFP module..." In this regard, it is not at all clear that the *Chiu* latch mechanism, intended for a single module (according to the Examiner) could even be implemented with the "component structure 502" (including multiple transceiver modules 512, 514 and 516) of *Yunker* so as to enable that component structure 502 "...to be selectively secured at least partially within an outer cage..." as claim 1, for example, requires.

Finally, the SFP MSA specifies a particular latch structure, namely, a latch boss, that an SFP-compliant module must include (see SFP MSA <http://www.schelto.com/SFP/SFP%20MSA.pdf> at pages 6-8 and 12). However, the Examiner has not established that the *Yunker* device includes such a latch boss in connection with which the *Chiu* mechanism, purported by the Examiner to be configured for use with an SFP module, could be employed.

In view of the foregoing discussion, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 1, 11, 18 and 29, at least because the Examiner has failed to establish the existence of a suggestion or motivation to make the purportedly obvious combination, and because the Examiner has failed to establish that there is a reasonable expectation that the purportedly obvious combination would be successful. Applicant thus respectfully

submits that the rejection of claims 1, 11, 18 and 29, as well as the rejection of corresponding dependent claims 2-5, 8-10, 12-17, 19, 20, 22-25, 30 and 31 should be withdrawn.

b. claims 6 and 21

The Examiner has rejected claims 6 and 21 under 35 U.S.C. § 103(a) as being obvious over the allegedly obvious combination of *Yunker* and *Chiu* in view of U.S. Patent No. 6,533,470 to Ahrens (“*Ahrens*”), Applicant respectfully disagrees.

Applicant notes that inasmuch as the rejection of claims 6 and 21 relies on the characterization of *Yunker* and *Chiu* advanced by the Examiner in connection with the rejection of claims 1-5, 8-20, 22-25 and 29-31, the rejection of claims 6 and 21 is defective for at least the reasons set forth at III.a. above. Moreover, Applicant notes that *Ahrens* has been cited merely for disclosing a connector receptacle on a host board. As such, the Examiner has not established that *Ahrens* cures the deficiencies of the proposed *Yunker/Chiu* combination discussed above.

In view of the foregoing discussion, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 6 and 21, and the rejection of such claims should accordingly be withdrawn.

IV. Allowable Subject Matter

The Examiner has indicated that claims 26-28 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. In view of the discussion set forth herein, Applicant respectfully declines to rewrite claims 26-28 in independent form at this time but reserves the right to do so at any time during further prosecution of this application.

Applicant submits the following comments concerning the Examiner’s statements of reasons for the indication of allowable subject matter in the Office Action. In general, Applicant agrees with the Examiner that the inventions to which claims 26-28 are respectively directed are patentable over the cited references, but respectfully disagrees with the Examiner’s statement of reasons for allowability as set forth in the Office Action.

Particularly, Applicant submits that it is improper to characterize a single limitation, or subset of limitations, as constituting the basis for allowance of a claim. Rather, the patentability of a claim is properly determined with reference to the claim as a whole. Accordingly, Applicant does not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claim allowable and Applicant does not make any admission or concession concerning

the Examiner's statements in the Office Action concerning the allowability of claims 26-28 in view of the cited references.

CONCLUSION

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-6 and 8-34 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 4th day of May, 2007.

Respectfully submitted,

/Peter F. Malen, Jr./

Peter F. Malen Jr.
Attorney for Applicants
Registration No. 45,576
Customer No. 022913
Telephone: (801) 533-9800